

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LOUISE I. TEUPELL,

Plaintiff,

vs.

Civ. No. 99-1223 JC/DJS

KENNETH S. APFEL,

Commissioner of Social Security,

Defendant.

AMENDED MAGISTRATE JUDGE'S ANALYSIS AND RECOMMENDED

DISPOSITION¹

1. On October 18, 2000, the Court filed its Analysis and Recommended Disposition. Plaintiff filed her objections on October 30, 2000. Upon review of the record, the Court amends its Analysis and Recommended Disposition, specifically paragraph 15, to read as follows:

2. In sequential evaluation step two, the Secretary determines whether a claimant has a "severe" impairment or combination of impairments that causes more than a minimal limitation on a Plaintiff's ability to function. See 20 C.F.R.

¹ Within ten (10) days after a party is served with a copy of these proposed findings and recommendations, that party may, pursuant to 28 U.S.C. Section 636(b)(1), file written objections to such proposed findings and recommendations. A party must file any objections with the clerk of the district court within the ten day period allowed if that party seeks appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

416.920(c). If a Secretary finds, at step two, "a medically severe combination of impairments, the combined impact of the impairments will be considered throughout the disability determination process." See 20 C.F.R. 416.923. There is evidence in the record that Plaintiff has "[h]eart failure." Tr. 133. The record shows that she has a left ventricular ejection fraction of 32%. Tr. 134. To meet the listing she must have an ejection fraction of 30%. It was error on the part of the ALJ not to consider Plaintiff's heart condition in combination with her other impairments.

Recommended Disposition

For these reasons, I recommend that Plaintiff's Motion to Remand be granted for proceedings consistent with this analysis.



Don J. Svet
United States Magistrate Judge